

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB APC 12-06 Information Technology

SPONSOR(S): Appropriations Committee

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Appropriations Committee		Potvin	Leznoff

SUMMARY ANALYSIS

The bill amends provisions relating to the Agency for Enterprise Information Technology (AEIT) and establishes the Agency for State Technology. The bill is a part of the comprehensive House budget plan.

The bill:

- Establishes the Agency for State Technology and authorizes a type two transfer of all records and property; unexpended balances of appropriations; administrative authority; the administrative rules in effect as of November 15, 2010, comprised only of Chapters 71-1, 71A-1 and 71A-2, Florida Administrative Code; pending issues, and existing contracts of the Agency for Enterprise Information Technology to the Agency for State Technology.
- Establishes the Agency for State Technology within the Executive Office of the Governor with the head of the agency being the Governor and Cabinet.
- Defines the duties and responsibilities of the Agency for State Technology to include providing project management oversight of the agency data center consolidations authorized pursuant to s. 282.201, F.S., and developing an Information Technology Strategic Plan for Florida.
- Repeals s. 14.204, F.S., relating to the Agency for Enterprise Information Technology.
- Repeals the following sections of law:
 - s. 282.0055, F.S., relating to the assignment of information technology;
 - s. 282.0056, F.S., relating to the development of work plans and implementation plans and policy recommendations;
 - s. 282.33, F.S., relating to energy efficiency standards for data centers; and
 - s. 282.34, F.S., relating to statewide e-mail service.
- Provides appropriation and full-time equivalent positions to the Agency for State Technology.

Fiscal Impact: The bill appropriates \$1,597,866 in recurring General Revenue Funds and 16 full-time equivalent positions and 1,165,386 of salary rate to the Agency for State Technology. The bill also conforms to the House General Appropriations Act for the 2012-2013 fiscal year which does not provide an appropriation for enterprise e-mail services as currently contracted.

Effective Date: July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Agency for Enterprise Information Technology

Current Situation

In 2007 the Legislature created the Agency for Enterprise Information Technology (AEIT) to oversee policies for the design, planning, project management, and implementation of enterprise information technology services, to include information technology security.¹ The AEIT is administratively housed within the Executive Office of the Governor, with the Governor and Cabinet as the head of the agency.

The AEIT is required to²:

- Submit an annual work plan for approval by the Governor and Cabinet.
- Monitor the implementation, delivery and management of the enterprise information technology services established in law.
- Make recommendations to the agency head and Legislature concerning other information technology services that should be designed, delivered, and managed as enterprise information technology services.
- Plan and establish policies for managing proposed statutorily authorized enterprise information technology services.
- Biennially publish a long-term strategic enterprise information technology plan.
- Perform duties related to enterprise information technology services including the state data center system, information technology security, and the statewide e-mail service.
- Coordinate with the Division of Purchasing in the Department of Management Services on the planning and acquisition of information technology products and work with the division in the establishment of best practices for procuring such products.
- Develop information technology standards.
- Submit a comprehensive transition plan for the consolidation of agency data centers into a primary data center.
- Annually provide the Legislature with recommendations for consolidating the purchase of information technology commodities and contractual services.

In 2008 specific duties and responsibilities pertaining to information technology security were assigned to the AEIT;³ but the Office of Information Security was still housed within the Department of Management Services (DMS). In 2009 the Office of Information Security was created within the AEIT,⁴ and 8 full-time equivalents (FTE) were transferred from the DMS budget to the AEIT in the Fiscal Year 2009-2010 General Appropriations Act.

Proposed Change

The bill repeals the section of law establishing the AEIT and creates a new section of statute that establishes the Agency for State Technology. The bill authorizes a type two transfer of all records and property; funds, trust funds, and unexpended balances of appropriations, allocations, and other funds; administrative authority; the administrative rules in effect as of November 15, 2010, comprised only of Chapters 71-1, 71A-1 and 71A-2, Florida Administrative Code; pending issues; and existing contracts of the AEIT to the Agency for State Technology.

The bill provides duties and responsibilities for the Agency of State Technology that include providing project management oversight of the agency data center consolidations authorized pursuant to s. 282.201, F.S., and developing an Information Technology Strategic Plan for Florida that includes

¹ 2007-105, Laws of Florida.

² Section 14.204, Florida Statutes.

³ 2008-116, Laws of Florida.

⁴ 2009-80, Laws of Florida.

compiling an inventory of information technology systems operated and maintained by state agencies and identifying strategies and opportunities to improve the delivery of these systems. In comparison to the AEIT, the new agency's duties and responsibilities are not as broad; rather they are focused on the duties necessary to ensure that the state realizes the cost savings and efficiencies of the agency data center consolidations and identifying other opportunities for improving the delivery of information technology in the state.

The bill defines the specific duties and responsibilities of the new agency to include:

- Providing project management oversight of the agency data center consolidations authorized pursuant to s. 282.201, F.S.
- Biennially submitting an Information Technology Strategic Plan with statutorily-required components.
- Developing information technology standards.
- Performing duties related to any additional enterprise information technology services that the Legislature may establish in law.

The bill appropriates funding and full-time equivalent positions to the Agency for State Technology.

Administrative Rules

Current Situation

The AEIT is authorized to adopt rules to carry out its statutory duties⁵ and to specifically adopt rules relating to:

- Information security⁶
- State data center system⁷

Since its establishment in 2007, the AEIT has promulgated the following administrative rules⁸:

- Chapter 71-1, Florida Administrative Code, *Confirmation and Delegation of Authority*, effective July 13, 2009.
- Chapter 71A-1, Florida Administrative Code, *Florida Information Technology Resource Security Policies and Standards*, effective November 15, 2010.
- Chapter 71A-2, Florida Administrative Code, *Florida Information Resource Security Policies and Standards*, effective August 10, 2004.

Additionally, the AEIT has initiated, but not completed, the promulgation of the following two administrative rules⁹:

- Chapter 71B-1, Florida Administrative Code, *Enterprise E-mail Service*.
- Chapter 71B-2, Florida Administrative Code, *Data Center System*.

Proposed Change

The bill transfers the administrative rules in effect as of November 15, 2010, comprised only of Chapters 71-1, 71A-1, and 71A-2, Florida Administrative Code, to the Agency for State Technology.

The bill clarifies that all notices published after November 15, 2010, by the AEIT pursuant to s. 120.54, F.S., are nullified and that all proceedings pursuant to s. 120.54, F.S., of the AEIT that are pending on the effective date of the bill or were initiated after November 15, 2010, are also nullified.

The bill nullifies the activity pertaining to the proposed rule for the enterprise e-mail service to conform with the repeal of s. 282.34, F.S., relating to the statewide e-mail service and the House proposed General Appropriations Act which provides no appropriation for the statewide e-mail service as currently contracted.

⁵ Section 14.204(7), F.S.

⁶ Section 282.318(6), F.S.

⁷ Section 282.201(2)(e), F.S.

⁸ *Florida Administrative Weekly & Florida Administrative Code*, Department of State, Division of Libraries and Information Services.

⁹ *Id.*

The bill also nullifies the activity pertaining to the proposed data center system rule because the rule does not accomplish the statutory directive of identifying the hardware and software standards for the primary data centers and in several sections is simply a restatement of current law.

Repealed Sections of Law

Current Situation

Section 282.0055, F.S., relates to the assignment of information technology and assigns the responsibility for the design, planning, project management, and implementation of enterprise information technology services for executive branch agencies to the AEIT. The supervision, design, delivery, and management of agency information technology remain the responsibility and control of the individual state agencies.

Section 282.0056, F.S., requires the AEIT to develop an annual work plan within 60 days after the start of a fiscal year that describes the activities that the AEIT intends to undertake that fiscal year. The work plan must be presented at a public meeting and approved by the Governor and Cabinet and then submitted to the Speaker of the House of Representatives and the President of the Senate. The AEIT is allowed to amend the work plan as needed, subject to approval by the Governor and Cabinet.

At the August 16, 2011, meeting of the Governor and Cabinet, the AEIT requested approval of its Fiscal Year 2011-2012 Operational Work Plan as required by s. 282.0056, F.S.; however, such approval was not provided by the Governor and Cabinet at this meeting. The meeting agendas of the Governor and Cabinet subsequent to the August 16, 2011, meeting have not included a request for approval of this work plan.¹⁰

Additionally, this section of law requires the AEIT to annually submit to the Speaker of the House of Representatives and the President of the Senate, implementation plans for proposed enterprise information technology services to be established in law.

Section 282.33, F.S., requires the AEIT by July 1, 2009, to define objective standards for measuring data center energy consumption and efficiency and calculating total cost of ownership of energy-efficient information technology products. Additionally, it requires AEIT beginning December 31, 2010, and every 3 years thereafter, to submit to the Legislature recommendations for reducing energy consumption and improving the energy efficiency of the primary data centers.

Section 282.34, F.S., establishes a statewide e-mail service that must be designed to meet the needs of all executive branch agencies. The law states that the primary goals of the statewide e-mail service are to:

- Minimize the state's investment needed to operate and support a statewide e-mail service.
- Reduce the cost of current agency e-mail operations and the number of duplicative e-mail systems.
- Eliminate the need for each state agency to maintain its own e-mail staff.

This section of law requires AEIT to submit a proposed plan for consideration by the Legislative Budget Commission (LBC) at a meeting scheduled before June 30, 2011, for the migration of all state agencies to the statewide e-mail service. Additionally, the AEIT is required to work with the Southwood Shared Resource Center to develop an implementation plan that identifies and describes the detailed processes and timelines for an agency's migration to the statewide e-mail service based on the migration date approved by the LBC.

Proposed Change

The bill repeals:

- s. 282.0055, relating to the assignment of information technology, to align with changes made in s. 14.206, F.S., establishing the Agency for State Technology.

¹⁰ Florida Governor and Cabinet website; <http://www.myflorida.com/myflorida/cabinet/>.

- s. 282.0056, relating to the submission of annual work plans and implementation plans for proposed enterprise information technology services, to align with changes made in s. 14.206, F.S., establishing the Agency for State Technology.
- s. 282.33, relating to energy efficiency standards for data centers, and incorporates in s. 140.206, F.S., the requirement to include proposed energy efficiency standards in the Strategic Information Technology Plan.
- s. 282.34, relating to the statewide e-mail service, to conform to the House General Appropriations Act for the 2012-2013 fiscal year which does not provide an appropriation for a contract executed June 29, 2011, by and between Affiliated Computer Services, State & Local Solutions, Incorporated and the Southwood Shared Resource Center for enterprise e-mail services. Repeal of the s. 282.34, F.S., is effective upon the bill becoming law.

B. SECTION DIRECTORY:

Section 1. Authorizes a type two transfer of the records and property; funds, trust funds, and unexpended balances of appropriations, allocations, and other funds; administrative authority; the administrative rules in effect as of November 15, 2010, comprised only of Chapters 71-1, 71A-1, and 71A-2, Florida Administrative Code; pending issues; and existing contracts of the AEIT to the Agency for State Technology.

Section 2. Nullifies all notices published after November 15, 2010, by the Agency for Enterprise Information Technology pursuant to s. 120.54, F.S., and all proceedings pursuant to s. 120.54, F.S., of the agency that are pending on the effective date of the or were initiated after November 15, 2010.

Section 3. Repeals s. 14.204, F.S., relating to the Agency for Enterprise Information Technology.

Section 4. Creates s. 14.206, F.S., establishing the Agency for State Technology with the Governor and Cabinet as the head of the agency and defining the agency's duties and responsibilities.

Section 5. Amends s. 282.0041, F.S., and deletes obsolete definitions.

Section 6. Repeals s. 282.0055, F.S., relating to the assignment of information technology.

Section 7. Repeals s. 282.0056, F.S., relating to the development of work plans and implementation plans and policy recommendations.

Section 8. Amends s. 282.201, F.S., eliminating the need for the submission of certain data pertaining to data center consolidation and aligning terminology with changes made in s. 14.206, F.S.

Section 9. Repeals s. 282.33, F.S., relating to energy efficiency standards for data centers.

Section 10. Repeals s. 282.34, F.S., relating to the statewide e-mail service.

Section 11. Amends s. 17.0315, F.S., aligning terminology with changes made in s. 14.206, F.S.,

Section 12. Amends s. 110.205, F.S., aligning terminology with changes made in s. 14.206, F.S.

Section 13. Amends s. 215.322, F.S., aligning terminology with changes made in s. 14.206, F.S.

Section 14. Amends s. 282.203, F.S., aligning terminology with changes made in s. 14.206, F.S.

Section 15. Amends s. 282.204, F.S., aligning terminology with changes made in s. 14.206, F.S.

Section 16. Amends s. 282.205, F. S., aligning terminology with changes made in s. 14.206, F.S.

Section 17. Amends s. 282.318, F.S., aligning terminology with changes made in s. 14.206, F.S.

Section 18. Amends s. 287.057, F.S., aligning terminology with changes made in s. 14.206, F.S.

Section 19. Amends s. 445.011, F.S., aligning terminology with changes made in s. 14.206, F.S.

Section 20. Amends s. 445.045, F.S., aligning terminology with changes made in s. 14.206, F.S.

Section 21. Amends s. 668.50, F.S., aligning terminology with changes made in s. 14.206, F.S.

Section 22. Provides Fiscal Year 2012-2013 appropriation for the Agency for State Technology and 16 full-time equivalent positions.

Section 23. Provides effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None

2. Expenditures: See Fiscal Comments

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None

2. Expenditures: None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None

D. FISCAL COMMENTS: The bill appropriates \$1,597,866 in recurring general revenue funds and 16 full-time equivalent positions and 1,165,386 of salary rate to the Agency for State Technology. The House proposed General Appropriations Act contains no appropriation for the Agency for State Technology and no appropriation for the Agency for Enterprise Information Technology which was appropriated \$1,666,826 and 16 FTE in the FY 2011-12 General Appropriations Act.

The proposed General Appropriations Act does not provide an appropriation for a contract executed June 29, 2011, by and between Affiliated Computer Services, State & Local Solutions, Incorporated and the Southwood Shared Resource Center for enterprise e-mail service.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: None

2. Other: None

B. RULE-MAKING AUTHORITY: The bill authorizes the type two transfer of the administrative rules in effect as of November 15, 2010, comprised only of Chapters 71-1, 71A-1, and 71A-2, Florida Administrative Code, of the Agency for Enterprise Information Technology (AEIT) to the Agency for State Technology. The bill also nullifies all notices published after November 15, 2010, by the AEIT pursuant to s. 120.54, F.S., and all proceedings pursuant to s. 120.54, F.S., of the AEIT that are pending on the effective date of the bill or were initiated after November 15, 2010. Rule-making authority is provided to the Agency for State Technology to implement provisions of law conferring duties upon it.

C. DRAFTING ISSUES OR OTHER COMMENTS: None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES